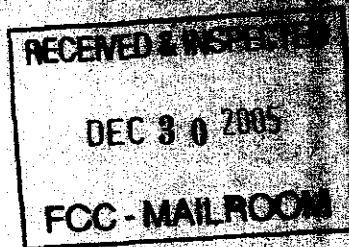


CGB-CC-030



December 28, 2005



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FCC
Attn: Secretary's Office
Closed Captioning
445 12th Street, SW
Washington, DC 20554

Re: Requesting Exemption From FCC Closed Captioning Requirement

Dear Commissioner:

Goodnews Broadcast Ministries is a very small 501c3 that produces a "family and faith friendly" program called **goodnews**. Our little program seems to have touched a nerve with networks and audiences alike and is growing in many exciting ways. Many people are desperately looking for programming that they can watch together as a family. With our recent growth and expanded broadcast outlets, **we have just learned from networks that want to start carrying our program in 2006 of the requirement by the FCC for Closed Captioning as of January 1, 2006.**

In reading the FCC order it is very clear that the intent of the FCC is to thankfully not cause undue burden on small program providers such as Goodnews Broadcast Ministries, Inc.

However, the rules for self-exemption seem to unintentionally provide for exemptions for networks and stations while omitting those originally intended most to help, which is the small program providers who are now forced to carry the added burden of costs for the required closed captioning.

According to the FCC Closed Captioning Requirements – Exemptions under Section 79.1

Section 79.1(d) of the Commission's rules contains several exemptions to the closed captioning rules. These are self-implementing exemptions, meaning that a provider does not need to seek Commission approval of the claimed exemption.

For purposes of determining compliance with Section 79.1, any video programming provider that meets one or more of the following criteria shall be exempt to the extent specified.

(1) **Programming subject to contractual captioning restrictions.** Video programming that is subject to a contract in effect on or before February 8, 1996, but not any extension or renewal of such contract, for which an obligation to provide closed captioning would constitute a breach of contract.

(2) **Video programming or video programming provider for which the captioning requirement has been waived.** Any video programming or video programming provider for which the Commission has determined that a requirement for closed captioning imposes an undue burden on the basis of a petition for exemption filed in accordance with the procedures specified in paragraph (f) of this section.

(3) **Programming other than English or Spanish language.** All programming for which the audio is in a language other than English or Spanish, except that scripted programming that can be captioned using the "electronic news room" technique is not exempt.

(4) **Primarily textual programming.** Video programming or portions of video programming for which the content of the soundtrack is displayed visually through text or graphics (e.g., program schedule channels or community bulletin boards).

(5) **Programming distributed in the late night hours.** Programming that is being distributed to residential households between 2 a.m. and 6 a.m. local time. Video programming distributors providing a channel that consists of a service that is distributed and exhibited for viewing in more than a single time zone shall be exempt from closed captioning that service for any continuous 4 hour time period they may select, commencing not earlier than 12 a.m. local time and ending not later than 7 a.m. local time in any location where that service is intended for viewing. This exemption is to be determined based on the primary reception locations and remains applicable even if the transmission is accessible and distributed or exhibited in other time zones on a secondary basis. Video programming distributors providing service outside of the 48 contiguous states may treat as exempt programming that is exempt under this paragraph when distributed in the contiguous states.

(6) **Interstitials, promotional announcements and public service announcements.** Interstitial material, promotional announcements, and public service announcements that are 10 minutes or less in duration.

(7) **ITFS programming.** Video programming transmitted by an Instructional Television Fixed Service licensee pursuant to §§ 74.931(a), (b) or (c) of the rules.

(8) **Locally produced and distributed non-news programming with no repeat value.** Programming that is locally produced by the video programming distributor, has no repeat value, is of local public interest, is not news programming, and for which the "electronic news room" technique of captioning is unavailable.

(9) **Programming on new networks.** Programming on a video programming network for the first four years after it begins operation, except that programming on a video programming network that was in operation less than four (4) years on January 1, 1998 is exempt until January 1, 2002.

(10) **Primarily non-vocal musical programming.** Programming that consists primarily of non-vocal music.

(11) **Captioning expense in excess of 2% of gross revenues.** No video programming provider shall be required to expend any money to caption any video programming if such expenditure would exceed 2% of the gross revenues received from that channel during the previous calendar year.

(12) **Channels producing revenues of under \$3,000,000.** No video programming provider shall be required to expend any money to caption any channel of video programming producing annual gross revenues of less than \$3,000,000 during the previous calendar year other than the obligation to pass through video programming already captioned when received pursuant to paragraph (c) of this section.

(13) **Locally produced educational programming.** Instructional programming that is locally produced by public television stations for use in grades K-12 and post secondary schools.

Under these self-implementing exemptions it would seem that we do not need to file for an exemption by meeting the following three criteria as outlined in Section 79.1

(9) **Programming on new networks.** Programming on a video programming network for the first four years after it begins operation, except that programming on a video programming network that was in operation less than four (4) years on January 1, 1998 is exempt until January 1, 2002.

Rational - goodnews Broadcast Ministries Incorporated was formed and received 501c3 status in 2003

(11) **Captioning expense in excess of 2% of gross revenues.** No video programming provider shall be required to expend any money to caption any video programming if such expenditure would exceed 2% of the gross revenues received from that channel during the previous calendar year.

Rational - Estimates received for cost to close caption programming would far exceed 2% of gross revenues.

(12) Channels producing revenues of under \$3,000,000. No video programming provider shall be required to expend any money to caption any channel of video programming producing annual gross revenues of less than \$3,000,000 during the previous calendar year other than the obligation to pass through video programming already captioned when received pursuant to paragraph (c) of this section.

Goodnews Broadcast Ministries gross revenue in 2003, 2004, and 2005 has only been approximately \$150,000 in each of these years.

However, as a small program provider we are not a "network" as stated under criteria (9), we are not a "channel" as stated under criteria (11), and we are not a "channel" under criteria (12). We are instead as most applicants for exemption a small independent program provider or content producer with limited staff, time, resources, and even less budget. We are the very type of group, organization, or production company the exemption was intended to help, but due to language, and reading of that language in other petitions filed, it seems instead of being helped or assisted we are excluded from "self-implementing exemption."

Since we are not a "network" or a "channel" it seems that we can then only apply under criteria (2) of Section 79.1

(2) Video programming or video programming provider for which the captioning requirement has been waived. Any video programming or video programming provider for which the Commission has determined that a requirement for closed captioning imposes an undue burden on the basis of a petition for exemption filed in accordance with the procedures specified in paragraph (f) of this section.

79.1 – Section F

Factors the Commission will consider when determining whether the requirements for closed captioning impose an undue burden include the following:

- The nature and cost of the closed captioning for the programming
- The impact on the operation of the provider or program owner
- The financial resources of the provider or program owner, including efforts to solicit captioning assistance from the distributors of its programming and the distributors' responses
- The type of operations of the provider or program owner
- Any available alternatives that might constitute a reasonable substitute for the closed captioning requirements, including but not limited to, text or graphic display of the content of the audio portion of the programming
- Other factors the petitioner deems relevant to the Commission's final determination.

Under 79.1 – Section F we also believe Goodnews Broadcast Ministries, Inc. meets the FCC requirements for exemption for closed captioning as it imposes an undue burden at this time.

The costs of closed captioning will add more than \$879.00 per episode in post-production costs which over the course of a broadcast year represents a very real and significant added expense for production. Programming will have to be sent to an outside company to do closed captioning, which will add significant delay in our ability to get finished episodes on air. This added delay is especially problematic with time sensitive segments for example with a "family friendly" movie reviews, Christmas specials, and other program situations where time needed for production is limited and the added delay in sending an episode out to be closed captioned will cause us to miss deadlines by broadcast outlets for airing. Having just learned of the requirement we will

certainly be requesting assistance from our distributors both in terms of expense and time needed to do closed captioning before airing.

We truly see closed captioning not as a restriction but as an opportunity. One we want to embrace as it will make our programming content available in a manor that it can be enjoyed by hearing impaired viewers. Having a parent and grandparent who are both hearing impaired, and a daughter studying as part of her college studies American Sign Language and working with students at the South Carolina School for the Deaf and Blind, I personally see the FCC requirement for Closed Captioning as a great thing that will benefit many.

Since Goodnews Broadcast Ministries is so new to producing program content, and we are just on the verge of our program being distributed to a wider audience and being able to impact more people, at this time the requirement will not only produce an "undo burden" it will force us to go off air until we can meet such requirements, losing momentum and broadcast outlets we have worked hard to develop, and result in doors that have just opened closing to our much needed program.

Goodnews Broadcast Ministries would respectfully like to not request exemption even though we believe we meet requirements both under section 79.1 and section 79.1(f).

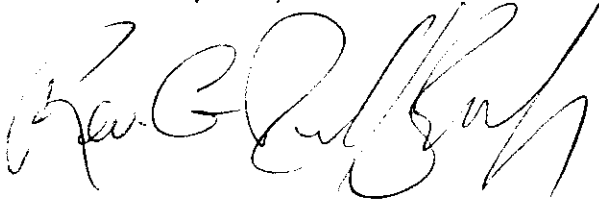
As an alternative to exemption, Goodnews Broadcast Ministries would like to request a delay in implementation, or an "exemption" from the requirements for a period between six and twelve months. That will give us what we believe will be plenty of time to solicit sponsorship for closed captioning that will cover the added costs and expenses, as well as find and select a suitable closed caption company that can provide us with services and meet critical production time tables so that we don't miss important air dates and broadcast deadlines with networks carrying our program.

We greatly appreciate your time, efforts, and the work that you do on our behalf everyone as we are a program providers but also more importantly individuals, parents, and families that watch television.

Any additional information, financial reports or documentation will gladly be made upon request as recommended by FCC due to public postings of information.

Again, thank you for your time and consideration!

Grace and peace,

A handwritten signature in black ink, appearing to read "Rev. G. Donald Barber Jr.", written in a cursive style.

**Rev. G. Donald Barber Jr.
President**

EXEMPTIONS TO THE CLOSED CAPTIONING REQUIREMENTS ON THE BASIS OF UNDUE BURDEN

In addition to the self-implementing exemptions from the closed captioning rules (found in 47 C.F.R. § 79.1(d)), the Commission's rules provide procedures for petitioning the Commission for an exemption from the rules where compliance with the rules will result in an undue burden (47 C.F.R. § 79.1 (f)). The term "undue burden" means significant difficulty or expense. Exemptions may be granted, in whole or in part, for a channel of video programming, a category or type of video programming, an individual video service, a specific video program, or a video programming provider, upon a finding that the closed captioning requirements will result in an undue burden. A petition for an exemption must be supported by sufficient evidence to demonstrate that compliance with the closed captioning requirements would cause an undue burden. Petitions must also be supported by an affidavit.

Factors the Commission will consider when determining whether the requirements for closed captioning impose an undue burden include the following:

- The nature and cost of the closed captioning for the programming
- The impact on the operation of the provider or program owner
- The financial resources of the provider or program owner, including efforts to solicit captioning assistance from the distributors of its programming and the distributors' responses
- The type of operations of the provider or program owner
- Any available alternatives that might constitute a reasonable substitute for the closed captioning requirements, including but not limited to, text or graphic display of the content of the audio portion of the programming
- Other factors the petitioner deems relevant to the Commission's final determination.

Undue burden shall be evaluated with regard to the individual outlet. We encourage petitioners to propose alternative implementation schedules or benchmarks that could minimize the burden of compliance with the rules, but would increase the amount of captioning available for their viewers.